

## § 40.103

### § 40.103 International child abduction.

An alien who would otherwise be ineligible under INA 212(a)(9)(C)(i) shall not be ineligible under such paragraph if the U.S. citizen child in question is physically located in a foreign state which is party to the Hague Convention on the Civil Aspects of International Child Abduction.

[61 FR 1833, Jan. 24, 1996]

### § 40.104 Unlawful voters.

An alien who at any time has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance or regulation is ineligible for a visa under INA 212(a)(10)(D).

[62 FR 67568, Dec. 29, 1997]

### § 40.105 Former citizens who renounced citizenship to avoid taxation.

An alien who is a former citizen of the United States, who on or after September 30, 1996, has officially renounced United States citizenship and who has been determined by the Attorney General to have renounced citizenship to avoid United States taxation, is ineligible for a visa under INA 212(a)(10)(E).

[62 FR 67568, Dec. 29, 1997]

### §§ 40.106–40.110 [Reserved]

## Subpart L—Failure to Comply with INA

SOURCE: 56 FR 30422, July 2, 1991, unless otherwise noted. Redesignated at 61 FR 59184, Nov. 21, 1996.

### § 40.201 Failure of application to comply with INA.

(a) *Refusal under INA 221(g)*. The consular officer shall refuse an alien's visa application under INA 221(g)(2) as failing to comply with the provisions of INA or the implementing regulations if:

(1) The applicant fails to furnish information as required by law or regulations;

(2) The application contains a false or incorrect statement other than one which would constitute a ground of ineligibility under INA 212(a)(6)(C);

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(3) The application is not supported by the documents required by law or regulations;

(4) The applicant refuses to be fingerprinted as required by regulations;

(5) The necessary fee is not paid for the issuance of the visa or, in the case of an immigrant visa, for the application therefor;

(6) In the case of an immigrant visa application, the alien fails to swear to, or affirm, the application before the consular officer; or

(7) The application otherwise fails to meet specific requirements of law or regulations for reasons for which the alien is responsible.

(b) *Reconsideration of refusals*. A refusal of a visa application under paragraph (a)(1) of this section does not bar reconsideration of the application upon compliance by the applicant with the requirements of INA and the implementing regulations or consideration of a subsequent application submitted by the same applicant.

[56 FR 30422, July 2, 1991, as amended at 61 FR 1835, Jan. 24, 1996. Redesignated at 61 FR 59184, Nov. 21, 1996]

### § 40.202 Certain former exchange visitors.

An alien who was admitted into the United States as an exchange visitor, or who acquired such status after admission, and who is within the purview of INA 212(e) as amended by the Act of April 7, 1970, (84 Stat. 116) and by the Act of October 12, 1976, (90 Stat. 2301), is not eligible to apply for or receive an immigrant visa or a nonimmigrant visa under INA 101(a)(15) (H), (K), or (L), notwithstanding the approval of a petition on the alien's behalf, unless:

(a) It has been established that the alien has resided and has been physically present in the country of the alien's nationality or last residence for an aggregate of at least 2 years following the termination of the alien's exchange visitor status as required by INA 212(e), or

(b) The foreign residence requirement of INA 212(e) has been waived by the Attorney General in the alien's behalf.